

*DENISE PIECHOWICZ vs.
LANCASTER CENTRAL SCHOOL DISTRICT & TOWN OF LANCASTER*

*DENISE PIECHOWICZ
October 13, 2016*



METSCHL
AND ASSOCIATES

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1 STATE OF NEW YORK
2 SUPREME COURT: COUNTY OF ERIE

3 DENISE PIECHOWICZ, Individually and as Administratrix
4 of the Estate of [REDACTED] Deceased,

5 Claimant,

6 vs

7 LANCASTER CENTRAL SCHOOL DISTRICT and
8 TOWN OF LANCASTER,

9 Defendants.

10
11 Examination of DENISE PIECHOWICZ, held pursuant to
12 Section 50-h of the General Municipal Law and Rules, in
13 the law offices of Brown Chiari, LLP, 2470 Walden Ave.,
14 Buffalo, New York, on Thursday, October 13, 2016, at
15 10:05 a.m. before Coleen Wright, Notary Public.
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23

1 APPEARANCES:

2 BROWN, CHIARI, LLP,
3 By: COLLEEN P. FAHEY, ESQ.,
4 2470 Walden Avenue,
5 Buffalo, New York 14225,
6 Appearing for the Plaintiff.

7 SUGARMAN LAW FIRM, LLP,
8 By: DANIEL T. CAVARELLO, ESQ.,
9 1600 Rand Building,
10 14 Lafayette Square,
11 Buffalo, New York 14203,
12 Appearing for the Defendant Lancaster Central
13 School District.

14 GOLDBERG, SEGALLA, LLP,
15 By: JULIE P. APTER, ESQ.,
16 665 Main Street,
17 Suite 400,
18 Buffalo, New York 14203,
19 Appearing for the Defendant Town of Lancaster.
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21
22
23

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12	(None marked.)	
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1 MS. FAHEY: We'll reserve the right to read
2 and sign.

3
4 (Whereupon, the following stipulations
5 were entered into by the respective parties:

6 It is hereby stipulated by and between
7 counsel for the respective parties that the oath
8 of the referee is waived, filing and
9 certification of the transcript are waived, and
10 all objections, except as to the form of the
11 question, are reserved until the time of trial.)

12
13 DENISE PIECHOWICZ, 16 Liberty Avenue, Lancaster, New
14 York 14086, after being duly called and sworn,
15 testified as follows:

16
17 EXAMINATION BY MR. CAVARELLO:

18
19 Q. Good morning, ma'am.

20 A. Good morning.

21 Q. Again, my name is Dan Cavarello and I am here on
22 behalf the Lancaster School District. I'm going to
23 ask you some questions about the notice of claim

1 received back in August with respect to the
2 situation involving your son [REDACTED] I guess before
3 I begin I just want to express to you that I'm very
4 sorry for your loss.

5 A. Thank you.

6 Q. None of my questions here today are meant to
7 embarrass you or cause you any additional heartache,
8 but I do have to ask some questions about the
9 allegations made here, okay? Do you understand
10 that?

11 A. Yes.

12 Q. Just a couple rules before we begin here. If I ask
13 you a question that you don't understand just please
14 tell me that and I'll be happy to try to rephrase
15 it.

16 A. Sure.

17 Q. It's very important that only one of us is speaking
18 at a time, so I'm going to try very hard to try to
19 not interrupt you, and I would ask that you try not
20 to interrupt me so that the court reporter can take
21 down everything we say and we can get a clear record
22 of what happens here today, okay?

23 A. Yes.

1 Q. I'll also probably be calling you ma'am for most of
2 the morning, because I don't think I can
3 successfully pronounce your name correctly, so
4 please don't take offense to that.

5 A. I never do.

6 Q. And if you do need to take a break at some point we
7 can certainly do that, but if there's a question
8 pending we're going to ask you to answer that first
9 unless your attorney tells you not to, okay?

10 A. Okay.

11 Q. I'd like to start with some background questions
12 about you, ma'am.

13 A. Okay.

14 Q. How old are you today?

15 A. Forty-six.

16 Q. What is your marital status?

17 A. Married.

18 Q. How about your highest level of education?

19 A. Bachelor's degree, University of Buffalo.

20 Q. Okay. What is that in?

21 A. It's in social work and sciences.

22 Q. Okay.

23 A. Behavioral sciences.

1 Q. About when did you get that?
2 A. 1994.
3 Q. Are you currently employed outside the home?
4 A. No.
5 Q. When was the last time you were?
6 A. 2008.
7 Q. Okay. And what was your last employment?
8 A. Catholic Health System.
9 Q. Okay. What did you do for them, ma'am?
10 A. Case manager.
11 Q. Your husband's name, ma'am?
12 A. Nicholas.
13 Q. And how old is he?
14 A. He is forty-five and he's a junior.
15 Q. Nicholas, Jr.?
16 A. Umm-hmm.
17 Q. Okay. How about his highest level of education?
18 A. High school.
19 Q. And is Nicholas employed?
20 A. Yes.
21 Q. What does he do?
22 A. He is a correctional officer.
23 Q. Where does he work?

1 A. Attica prison.

2 Q. And about how long has he done that?

3 A. Twelve years this November.

4 Q. Okay. All right. Do you have any other children?

5 A. Yes.

6 Q. Can you give me their names and ages, please?

7 A. Sure. I have a stepdaughter Brittany and she is

8 twenty-two.

9 Q. And what is Brittany's last name?

10 A. Piechowicz.

11 Q. Okay. All right.

12 A. And [REDACTED], [REDACTED] Piechowicz, and she is ten.

13 Q. Had you ever been married before?

14 A. No.

15 Q. Ma'am, what was [REDACTED] date of birth?

16 A. [REDACTED].

17 Q. Do you know [REDACTED] Social Security Number?

18 A. Not offhand, no.

19 Q. Is that information that you have --

20 A. Yes.

21 Q. -- someplace?

22 A. Yes, I do.

23 Q. Okay.

1 A. Oh, I might have it. I could look. I have a
2 picture of his death certificate on my phone that I
3 could probably look up and get.

4 Q. I'll tell you what; when we take a break we can get
5 that, and your attorney will explain to you why we
6 need that, okay?

7 A. Okay.

8 Q. How about grandparents; did Jordan have
9 grandparents?

10 A. Yes.

11 Q. Can you give me their names?

12 A. Peggy Jaskowiak, J-A-S-K-O-W-I-A-K.

13 Q. Okay.

14 A. It's my mother.

15 Q. And that's your maiden name?

16 A. Yes.

17 Q. Okay.

18 A. And then Nick and Diane Piechowicz.

19 Q. All right. And did [REDACTED] have any type of
20 relationship with those folks, with his
21 grandparents?

22 A. More with my mother.

23 Q. Okay. And how about with Nicholas and Diane?

1 A. Not in the past six years.

2 Q. Was there any particular reason for that?

3 A. Yes. There was an order of protection --

4 Q. Without getting into --

5 A. -- with his grandfather.

6 Q. Without getting into all the details of that, how
7 did that come about?

8 A. He's been sick for a number of years with -- he must
9 have had over twenty surgeries with rheumatoid
10 arthritis and osteoarthritis, and he's taken three
11 hundred painkillers a month, and he's just -- he
12 wasn't right, and he wanted to drive the kids, I
13 wouldn't let him, and he started getting angry with
14 me, so he came over our house one day and he wanted
15 to beat up Nick, and Nick goes call the police
16 because I'm not touching him.

17 MS. FAHEY: That's okay.

18 BY MR. CAVARELLO:

19 Q. So something out of Family Court?

20 A. Yes.

21 Q. Okay. And does your mom live locally?

22 A. Cheektowaga.

23 Q. All right. So who was -- I guess as of May of 2016

1 who was residing at the Liberty Avenue address?

2 A. Me, [REDACTED] and Nick..

3 Q. Okay. At the time he passed away did Jordan have
4 any medical conditions?

5 A. He always had acid reflux since the time of age -- I
6 believe he was diagnosed at age two.

7 Q. Okay. Anything else?

8 A. He had many surgeries with ears, problems with ear
9 infections, he had tubes, and then he had his
10 tonsils taken out.

11 Q. Who was his pediatrician?

12 A. Genesee Transit Pediatrics.

13 Q. Okay.

14 A. Dr. Dzik, D-Z-I-K.

15 Q. Okay. Had he ever treated for any
16 psychological-type issues?

17 A. Never.

18 Q. Had he ever been prescribed any medication for any
19 issues like that?

20 A. No.

21 Q. Depression, anxiety, anything like that?

22 A. Never.

23 Q. Had he ever met with counselors at school to your

1 knowledge?

2 A. No.

3 Q. And how about any outside counselors?

4 A. Never.

5 Q. Let me ask you about [REDACTED] academic history. Did
6 he start --

7 MS. FAHEY: Excuse me, Dan.

8 MR. CAVARELLO: Yes.

9 MS. FAHEY: Can we stop for one second and
10 go off the record?

11 MR. CAVARELLO: Sure.

12 (Discussion off the record.)

13 BY MR. CAVARELLO:

14 Q. Ma'am, before we broke I was about to start asking
15 you about [REDACTED] academic career, and I believe I
16 asked you whether he started with the Lancaster
17 schools in kindergarten; is that correct?

18 A. Yes.

19 Q. So where did he go to elementary school?

20 A. Went to Como Park Elementary.

21 Q. Okay.

22 A. And then to William Street, and then he was at the
23 middle school when he passed.

1 Q. All right. So William Street went to what grade?

2 A. Sixth.

3 Q. All right. So when he got to seventh grade then he
4 was over to the middle school?

5 A. Yes.

6 Q. Now, in terms of his elementary school career, did
7 he have any disciplinary issues there?

8 A. Never once.

9 Q. Did he ever get in trouble at school?

10 A. He never got in trouble.

11 Q. And how about his academic performance; how would
12 you describe that in the elementary schools?

13 A. He was definitely a special needs' child.

14 Q. At some point was he referred to the Committee on
15 Special Education?

16 A. Yes.

17 Q. Do you know what grade that occurred?

18 A. Well, when he started kindergarten, parent/teacher
19 conference, the teacher noticed something. He
20 wasn't diagnosed at the time. She couldn't put her
21 finger on it. So I went on my own and paid for an
22 evaluation to have them done.

23 Q. What was --

1 A. It was hearing and speech on Elmwood, I don't know
2 if it was Ken-Ton Hearing & Speech, and there he was
3 diagnosed with auditory processing disorder by Dr.
4 Hillary. She's supposed to be one of the best
5 doctors for that.

6 Q. This was in kindergarten?

7 A. Yes.

8 Q. Okay.

9 A. Because if I would have waited the school would have
10 tested him I believe in first or second grade, and I
11 didn't want to wait, so I did it on my own.

12 Q. So when you got the results of that did you share
13 that with the school?

14 A. Absolutely. I took three copies, to the principal,
15 the speech pathologist, and the social worker, I
16 believe, at the time.

17 Q. And were there any special services provided to him
18 --

19 A. Yes.

20 Q. -- at that point?

21 A. Yes. That's when he started in with speech.

22 MS. FAHEY: You're just cutting off the end
23 of his question --

1 THE WITNESS: I'm sorry.

2 MS. FAHEY: -- so if you could be conscious
3 of that and pause for a second.

4 THE WITNESS: Sure.

5 MS. FAHEY: Thank you.

6 BY MR. CAVARELLO:

7 Q. He had speech services. Anything else?

8 A. In kindergarten I'm not sure. I'm not sure when
9 everything began, if it was first grade or if it was
10 kindergarten, but I believe his speech was started
11 right away in kindergarten.

12 Q. At what point did he actually have an IEP? When did
13 that start?

14 A. I'm not sure if it was kindergarten or first grade.

15 Q. Okay. And are you able to tell us what services he
16 received as part of the IEP?

17 A. When he first started?

18 Q. Yeah. Whenever it was, kindergarten or first grade.

19 A. Yes. He was receiving speech and then he was in a
20 room with Mr. Edwards, who was the special ed
21 teacher, every day I believe for like an hour with
22 Mr. Edwards.

23 Q. Okay.

1 A. And then he also had a reading teacher that would
2 come in, and I believe she sat in the classroom with
3 him, and I'm not sure about the math.

4 Q. Were you part of the annual meetings --

5 A. Yes.

6 Q. -- about his IEP after that?

7 A. Yes.

8 Q. And any of the services that he had in elementary
9 school, did they change as he got older?

10 A. They were trying to pull back on services when he
11 went to William Street and it didn't work.

12 Q. Okay. And what do you mean by pull back?

13 A. Like I think they were -- they pulled back on
14 speech, I know that, and then at one point they
15 increased it to math, reading, and then I think they
16 pulled back on the math and said it wasn't working,
17 so we had to put it back, so he remained pretty
18 constant throughout.

19 Q. Did you ever have any disputes or disagreements with
20 the district with his special ed services while he
21 was in elementary school?

22 A. Never.

23 Q. Was there a particular person you dealt with on

1 special ed issues when he was an elementary school
2 student?'

3 A. Yes. At Como Park I dealt with Mr. Edwards.

4 Q. Okay. And how about at William Street?

5 A. At William Street I believe it changed every year,
6 and I can't remember everyone I dealt with there.

7 Q. Okay. So how about when he got to middle school,
8 seventh grade, did he still have an IEP?

9 A. Yes.

10 Q. And did you have a primary point of contact at the
11 middle school?

12 A. I did. Her name ain't coming to me right now. I
13 can see her face, too.

14 Q. Do you know what her position was?

15 A. Yes, special ed teacher.

16 Q. Is it Miss Baker?

17 A. Yes, it was, and she was the same seventh and eighth
18 grade.

19 Q. Okay. So was she assigned to [REDACTED]?

20 A. Yes.

21 Q. So was she with him all the time?

22 A. No, no, but she -- from my understanding is she
23 would meet with [REDACTED] for I think it was one period

1 a day, and in that time she would go over all his
2 assignments to make sure he had everything done,
3 everything he needed, any help. It was like that
4 extra services to get him organized.

5 Q. And did you have regular communication with Miss
6 Baker?

7 A. She had -- she would call me before our IEPs. She
8 -- I didn't have too much contact with her. She
9 sent me copies after IEP meetings, but that's the
10 extent of it.

11 Q. Okay. Did she ever report any issues with [REDACTED] to
12 you?

13 A. Never.

14 Q. Did you ever have any disputes or disagreements with
15 her --

16 A. No.

17 Q. -- about [REDACTED]?

18 A. No.

19 Q. Okay. How was his academic performance as a
20 seventh-grader?

21 A. Improving.

22 Q. Okay. Now, by the time they get to middle school
23 they're getting actual grades, right?

1 A. Yes.

2 Q. Can you tell us grade point wise what his grades
3 were like?

4 A. I know for eighth grade he was almost on honor roll,
5 that's how high he was getting. Seventh grade I
6 think was more in the 80s overall.

7 Q. And was he ever in any kind of trouble at school as
8 a seventh-grader?

9 A. No.

10 Q. Was he assigned to a school counselor as a
11 middle-schooler?

12 A. I believe so.

13 Q. Do you know who that was?

14 A. No.

15 Q. Do you know if he ever met with a school counselor
16 as a seventh-grader?

17 A. It was his academic counselor, like your guidance
18 counselor. He had meet with the guidance counselor
19 to go over his ninth-grade schedule.

20 Q. Okay. Are you aware of him meeting with any
21 counselors at school for any other reasons?

22 A. No, not that I'm aware of.

23 Q. Was [REDACTED] involved in extracurricular activities?

1 A. Yes.

2 Q. Can you tell us about those?

3 A. Modified football, seventh and eighth grade.

4 MS. APTER: I'm sorry. What was the second
5 part?

6 THE WITNESS: It was modified football,
7 seventh and eighth grade.

8 MS. APTER: Okay.

9 BY MR. CAVARELLO:

10 Q. Had he played football prior to that?

11 A. No. I'm sorry. He wasn't in seventh grade. He
12 started only in eighth grade. His friends, yeah,
13 convinced him.

14 Q. And what position did he play?

15 A. He bounced from offense and defense, first string,
16 second string.

17 Q. So that would have been the fall of his
18 eighth-grade --

19 A. Yes.

20 Q. -- year?

21 A. Yes.

22 Q. Any other sports or activities?

23 A. Hockey. ;

1 Q. Did he play travel hockey?

2 A. He played -- it was called mollen. It was like a
3 modified house league that they did semi-travel.

4 Q. What program did he play for?

5 A. Buffalo Stars.

6 Q. And how many years did he play hockey?

7 A. He played hockey since he was eleven, so he was two
8 years in hockey.

9 Q. Okay. Any other extracurricular activities he was
10 involved in?

11 A. No, that's it.

12 Q. Okay. Can you tell us who his -- who his friends
13 were, the primary people he hung around with as a
14 middle school student?

15 A. Yeah. [REDACTED] [REDACTED]

16 Q. Do you know how to spell [REDACTED] name?

17 A. Last name?

18 Q. Yes.

19 A. [REDACTED]

20 Q. What grade is [REDACTED] in?

21 A. Same as [REDACTED]

22 Q. Do you know how long they had been friends?

23 A. No.

- 1 Q. Anyone else?
- 2 A. [REDACTED]
- 3 Q. Also an eighth-grader?
- 4 A. Yes.
- 5 Q. Okay. And do you know how long they had been
- 6 friends?
- 7 A. I believe since William Street.
- 8 Q. Okay. Anyone else that comes to mind?
- 9 A. [REDACTED].
- 10 Q. Is that with a K or a C?
- 11 A. K.
- 12 Q. Okay. Is it [REDACTED]?
- 13 A. Yes, it is.
- 14 Q. And was [REDACTED] in eighth grade?
- 15 A. Yes.
- 16 Q. Anyone else you can recall?
- 17 A. And then he spent a lot of time with the Buffalo
- 18 Stars' team.
- 19 Q. Okay. So was he a Pee Wee level?
- 20 A. He was Pee Wee and this year was -- well, the past
- 21 year was Bantum.
- 22 Q. Bantum. Okay. Do you know who his coaches were for
- 23 the stars?

1 A. Yeah. It was -- oh, my God. I'm going blank. Oh,
2 my God. I'll think of it.

3 Q. If you do we can come back to it. If it comes to
4 you in an half an hour or so --

5 A. It will.

6 Q. -- just stop me and we'll go back to it. I want to
7 ask you about I guess an incident or disciplinary
8 situation that occurred in March of 2016 at the
9 middle school, okay? As I understand it there was
10 some type of an incident where [REDACTED] had to meet
11 with the principal and got in some type of trouble,
12 some type of suspension. Do you know what incident
13 I'm referring to?

14 A. Yes.

15 Q. Okay. And, as I understand it, it involved the way
16 he was dressed or the way he was sitting in class.
17 Are we talking about the same incident?

18 A. Yes.

19 Q. Okay. When did you become aware that this issue had
20 arisen at school?

21 A. When the principal called me that day.

22 Q. Okay. And is that Mr. Kruszynski?

23 A. Yes.

1 Q. Tell us what the principal told you when he called.

2 A. He said that there was an incident in the classroom,
3 it was like a special reading class, it was part of
4 his IEP, and I guess it had a mix of seventh and
5 eighth-graders in this classroom. As I was told, it
6 was a smaller room and it was a comfortable room so
7 the kids could relax and read.

8 Q. And what did he tell you had allegedly occurred in
9 the room?

10 A. That there were three girls who claimed that [REDACTED]
11 put his leg up and he was wearing shorts, and that
12 he pulled his shorts in a way to expose himself to
13 the three girls.

14 Q. Okay. Was it your understanding that this had
15 happened one time or more than one time?

16 A. Well, when I was first talking with the principal I
17 thought that he was talking all three girls in that
18 moment, that day, that [REDACTED] exposed himself to,
19 but as our conversation went on the principal said
20 this happened in October, January, and March, and
21 that it was just one girl that day who claimed this,
22 but then after talking with her other girlfriends
23 they came down and told the principal.

1 Q. Okay. So there were three girls that claimed that
2 it happened on three different occasions?

3 A. Yes.

4 Q. Okay. Was this your first contact ever with the
5 principal?

6 A. Umm-hmm.

7 Q. Yes?

8 A. I didn't even know who the principal was.

9 Q. Okay. So what happened after the telephone
10 conversation? Did you go to the school, did you
11 meet with him in person?

12 A. No.

13 Q. Did he tell you what he was planning on doing about
14 it?

15 A. When I was talking with him I thought he called to
16 talk to me about the situation, and I thought he was
17 like looking for my opinion on what to do, but
18 everything was done already. I was being told what
19 had happened after the fact, and then he said that
20 he put [REDACTED] in in-school suspension and that today
21 is almost over, so he already has one under his
22 belt, and that he had two more days.

23 Q. And how did you react to that?

1 A. And then I -- then I got -- I said -- I got upset,
2 because then when I found out that this had happened
3 three different times I said why wasn't I notified
4 back in October or the other times and why am I
5 hearing about it today and why are you believing all
6 three of them over my son, and then he told me they
7 were credible and he had to believe them.

8 Q. Did he indicate that he had spoken to [REDACTED] about
9 it?

10 A. Yes.

11 Q. And what had [REDACTED] said?

12 A. Jordan tried to explain to him what had happened in
13 the classroom, that he normally would sit at the
14 table and put up his foot to read, and the way the
15 room is, [REDACTED] happened to be higher than the
16 girls. The girls were at a lower level on this
17 couch. And [REDACTED] explained that to the principal
18 as far as the principal had told me.

19 Q. Did you ever speak to [REDACTED] yourself about it?

20 A. Yes, I did.

21 Q. And what did he tell you?

22 A. He came home crying -- well, first I got a text.
23 After I hung up with the principal I got a text from

1 [REDACTED], and in the text [REDACTED] says, mom, I'm being
2 accused of something I didn't do, and I believe I
3 replied I know, he called me. And then [REDACTED] says
4 I'm really upset right now. And I said can you go
5 talk to a counselor, and then I said do you want me
6 to come in, I text him, do you want me to come in
7 and talk to the principal. He said no. That's when
8 I said can you go talk with a counselor, and he said
9 yeah. And then I said I'll talk to you when you get
10 home.

11 Q. Do you know if he went and spoke to a counselor?

12 A. I don't believe he did. I believe it was towards
13 the end of the day already when this was going on.

14 Q. Did he say why he was really upset?

15 A. Because he didn't do it. He was being accused of
16 something he didn't do.

17 Q. How did he explain it to you? Did he indicate --

18 A. He came home crying.

19 Q. -- it was an accident or, something, or --

20 A. He came home crying. He was so upset because nobody
21 would listen to him. He was telling the truth and I
22 guess the principal just didn't want to hear it.

23 Q. What did [REDACTED] tell you when he got home about what

1 exactly --

2 A. He started --

3 Q. -- happened?

4 MS. FAHEY: Wait for the question.

5 THE WITNESS: I'm sorry.

6 BY MR. CAVARELLO:

7 Q. That's okay. What did he tell you happened?

8 A. He came home, he was crying, and he said, ma', I
9 didn't do it, and he said the way he reads -- and
10 [REDACTED] wears shorts every day to school, that's just
11 his thing. He said he had put his leg up on the
12 table to read.

13 Q. Did he say anything else?

14 A. No, because he didn't know what he did. He didn't
15 do anything.

16 Q. After you spoke to [REDACTED] did you have any further
17 contact with the principal?

18 A. No.

19 Q. Was there any particular reason why you didn't call
20 him back or speak to someone else at the school?

21 A. Yes, because then when my husband got home from work
22 I told my husband what had happened and we talked
23 with [REDACTED] and, again, [REDACTED] started crying, and

1 we told him we believed him and we told him, well,
2 you already got a day in suspension, he felt like no
3 one was going to believe him anyway, so do the two
4 more days, you're almost out of that school, you're
5 going to have a fresh start at the high school, and
6 that will be the end of it. So [REDACTED] took it like
7 a man. He took the punishment and moved on.

8 Q. Now, that was in the first part of March. Did
9 [REDACTED] remain in that reading class after his
10 suspension was up?

11 A. No.

12 Q. And why not?

13 A. He -- we talked -- because this happened on a
14 Friday, so we were talking over the weekend and he
15 says he don't want to be in that class anymore, he
16 felt he didn't need it to begin with, and that he
17 didn't want to be back in that room and be accused
18 again.

19 Q. Okay. So did you take some action?

20 A. Yes. I had called his counselor, his academic
21 counselor, but the one that he deals with wasn't --
22 I don't know if she was on maternity leave or what,
23 so I was referred to another counselor who I

1 couldn't get a hold of. So I contacted the teacher
2 in his classroom and she said that -- I told her
3 what happened. She said she would get -- she agreed
4 with me, the best thing would be to get [REDACTED] out
5 of that classroom. She had contacted the counselor.
6 The counselor called me at the end of the day, says
7 we got him out, we put him in a study hall. That
8 was the end of it. I got a letter following that up
9 I think a week later.

10 Q. Now, other than that first day when he came home and
11 was crying about it was he ever upset about that
12 particular incident again in your presence?

13 A. Yeah. He was upset until the punishment was over,
14 'cause when he went to return for the second day in
15 school he said his football coach, his gym teacher,
16 and two other teachers had walked by, saw him in the
17 in-school suspension room and says what the hell are
18 you doing there. They couldn't believe it, because
19 he don't get in trouble, he's a good kid, and [REDACTED]
20 was upset because he told them and they're like, aw,
21 man. He came home telling me that. He says even my
22 teachers know I don't belong in there.

23 Q. Did he suffer any consequences as far as the

1 football team was concerned?

2 A. No. This was past football season.

3 Q. After the suspension was over do you know whether he
4 sought out anybody at school to talk to them about
5 this, a teacher or counselor or anything?

6 A. He was happy to be out of that classroom, so he was
7 content.

8 Q. Okay. Did he know these girls that made the
9 accusations?

10 A. He told me he didn't know their names, but he did
11 say they were seventh-graders.

12 Q. As far as that incident was concerned was the
13 principal the only person from the school that spoke
14 to him about it, as far as you know?

15 A. Yes.

16 Q. And do you know if anyone else was present when the
17 principal spoke to him about that incident?

18 A. I don't know.

19 Q. Were there any further incidents involving your son
20 either at school or outside of school where you
21 noticed him being upset about anything between March
22 and May 6th?

23 A. No. He was -- he was very happy because his team

1 was winning, they were going to the championship.
2 He spent a lot of time with the Buffalo Stars and he
3 was looking forward to doing trainings in the
4 summer. It was the same trainers that worked with
5 the Buffalo Sabres, so he was really excited.

6 Q. So this would be his Bantam team?

7 A. Umm-hmm.

8 Q. Yes?

9 A. Yes.

10 Q. Was the hockey season over by early May?

11 A. It was over by the end of April.

12 Q. Okay. And did they -- you say they won the
13 championship?

14 A. They went to the championship. They lost, but they
15 went to the championship.

16 Q. Okay. So as of early May was that a break in the
17 hockey season at that point?

18 A. Yes. He was not -- the Buffalo Stars was over, but
19 he was already into Dippin' Dots. He was with the
20 summer league already, so he started training
21 already for the Dippin' Dots, I believe.

22 Q. Did he do that at Holiday?

23 A. It was between Holiday and -- what's the other one?

1 Q. The one in Orchard Park?

2 A. Yeah. They work hand in hand with each other.

3 Q. Leisure?

4 A. Leisure, yes.

5 Q. All right. So between that first week of March and
6 May 6th did you observe any behaviors by [REDACTED] that
7 caused you any concern?

8 A. No.

9 Q. Did anyone express to you, you know, anyone from the
10 school, any of his friends, any of his family
11 members, express to you that he didn't seem like he
12 was himself?

13 A. No.

14 Q. Did he suffer any consequences at home as a result
15 of that incident in March?

16 A. No, because me and my husband said we believed him.

17 Q. All right. Then let's move ahead to May, if we can,
18 okay, ma'am?

19 A. Umm-hmm. Yes.

20 Q. All right. Were you, in fact, contacted again by
21 the principal sometime in the morning of May 6th?

22 A. Yes.

23 Q. Can you tell us about that?

1 A. Yes. I was coming -- I know it was right after -- I
2 believe it was like right around noon. I was just
3 coming home from grocery shopping and I had
4 groceries in my hand, and I took the phone in the
5 garage and -- you want me to keep going?

6 Q. Yes.

7 A. Okay. And then it was the principal, and he said
8 that -- he wanted to explain that [REDACTED] was dating
9 a girl back in February for three days, they broke
10 up, and during that time this girl took a picture of
11 her naked behind and sent it to [REDACTED]

12 Q. Did you know who the girl was?

13 A. No.

14 Q. Did you know that [REDACTED] had dated a girl for three
15 days?

16 A. No.

17 Q. I'm sorry. Go ahead.

18 A. And that this picture made its way to the middle
19 school, the high school of Lancaster, and also Depew
20 school.

21 Q. Did he say how that had occurred?

22 A. I guess [REDACTED] sent it to a friend and it took on a
23 life of its own.

1 Q. Do you know who [REDACTED] sent it to?

2 A. No.

3 Q. Okay. And how about when he sent it; do you know
4 that?

5 A. No.

6 Q. Okay. What else did the principal say?

7 A. So he said that the girl found out that [REDACTED] had
8 showed the picture that morning to a boy on the bus
9 and that the boy on the bus begged [REDACTED] to see the
10 picture, and [REDACTED] didn't want to show him, but the
11 boy begged him, so [REDACTED] did show him the picture.
12 Then the boy who saw the picture told the girl he
13 seen the picture who the girl was, and she came to
14 the principal's office to report it.

15 Q. Now, did you ever learn who the girl was?

16 A. No. That day, no.

17 Q. At any point?

18 A. Now I know.

19 Q. Okay. Who was it?

20 A. [REDACTED].

21 Q. When you learned the name was that the first time
22 you had ever heard of this girl?

23 A. Yes.

1 Q. So about what time did you get the call from
2 Mr. Kruszynski?

3 A. It had to be around I want to say five after twelve,
4 because I was at Save A Lot and I was coming in, and
5 I just -- I remember looking at the clock in the
6 garage. It was somewhere around twelve five, twelve
7 ten.

8 Q. Okay. So did Mr. Kruszynski indicate whether he had
9 spoken to [REDACTED] about this?

10 A. So he told me that he had brought in the Lancaster
11 police officer and that they brought [REDACTED] in to
12 the office. [REDACTED] admitted to having the picture.

13 Q. Okay. What else did he say?

14 A. He said that they went through his phone, deleted
15 the picture, found more pictures of girls behind a
16 hidden app, no one from the school, and then he told
17 me that he was giving [REDACTED] three days of in-school
18 suspension, and I told him the hell you're not. I
19 said why don't you call Dr. Phil on that girl and
20 her parents. I said don't punish my son, he didn't
21 do anything wrong, this didn't happen on school
22 property as far as you know. And he goes yes, it
23 did, it was on the -- the bus is school property,

1 and then he yelled it a little bit louder than that,
2 and that upset me, and I said I'm not over March
3 when you punished my kid for three days for doing
4 nothing. I said I'm coming in. He's telling me the
5 police are involved. I'm coming in. He goes fine,
6 he says, you can come in. So I told him I'll be
7 there in five minutes. Well, when I got off the
8 phone I called my husband. My husband was at work,
9 working a double. I called my husband at Attica
10 prison and I told him, I said the principal called,
11 told him what he had said, and my husband was so
12 upset. He goes call back the school and tell them
13 wait forty minutes, I'm coming, so I did.

14 Q. Before we go any further, ma'am, did you feel as
15 though it was inappropriate or not correct for
16 [REDACTED] to be punished, even though he had shared the
17 photo on the bus?

18 A. Why wasn't I called? The second time I'm called
19 after the fact. What do you mean you went through
20 -- all these thoughts are going through my head.
21 What do you mean the police are there. What do you
22 mean you went through his phone. I was so upset.
23 I couldn't even -- if I'm this upset I can't even

1 imagine what [REDACTED] going through right now.

2 Q. I understand that, ma'am, but did you disagree that
3 he should be punished for sharing that on the bus?

4 A. It wasn't my mind frame at the time.

5 Q. So --

6 A. I felt outcasted. I felt like I had no part in
7 this.

8 Q. All right. So you were upset that it was already
9 taking place --

10 A. Done and over with, and then, "just so you know".
11 That's how I felt.

12 Q. Okay. All right. So did you wait for your husband?

13 A. Yes, I did. I called back the school, I told them
14 -- told the secretary I'm coming in to meet with
15 Mr. Kruszynski, but it's going to be in forty
16 minutes when my husband gets in from work. She said
17 okay.

18 Q. Do you know approximately what time you arrived at
19 the school?

20 A. It was around one, maybe a little bit after.

21 Q. Did your husband meet you there?

22 A. No. He picked me up.

23 Q. All right. And did you meet with the principal?

1 A. We did.

2 Q. Was anyone else present?

3 A. No.

4 Q. Tell us about the meeting.

5 A. Sat down, he told us the same story he told me on
6 the phone. He was telling it to my husband. He
7 said that the Lancaster police officer who works in
8 the school went through [REDACTED] phone, found the
9 pictures, deleted the pictures. He told us about
10 the hidden app and that [REDACTED] got three days of
11 in-school suspension, which he was already in in
12 that moment.

13 Q. Okay. And how did you respond to that information?

14 A. I said did you explain to [REDACTED] what he did and why
15 he's in in-school, and he says it's in the manual.
16 And I said, no, no, did you explain; [REDACTED] has an
17 IEP. And he goes, well, I didn't see you at the
18 parent meeting last week. I go what are you talking
19 about. He goes we had a meeting for apps, hidden
20 apps with the phone. And my husband goes my son has
21 special needs; did anybody explain to him. We were
22 getting nowhere. He wasn't understanding what we
23 were trying to ask him. Then I said, well, I want

1 to see [REDACTED] I said 'cause the last time he came
2 home crying that he didn't do it. He goes I'll get
3 [REDACTED]. I said okay. He went, he left the office.
4 Within seconds he came back with [REDACTED], and [REDACTED]
5 didn't even look at me or my husband. He sat down
6 with his head down and says I did it, okay, and then
7 he got up and [REDACTED] wanted to leave.

8 Q. And after [REDACTED] said that did you or your husband
9 say anything?

10 A. My husband says I'll see you when I get home.

11 Q. So at that point did you or your husband -- strike
12 that. At that point did you agree or disagree with
13 the punishment that Mr. Kruszynski had determined?

14 A. I disagreed with the punishment.

15 Q. And why was that?

16 A. Three days for having something in his private
17 possession -- I don't know. I just felt both times
18 the crime -- the punishment didn't fit the crime.

19 Q. Do you feel it was excessive?

20 A. I do.

21 Q. Okay. Did Mr. Kruszynski explain to you what the
22 options were as far as punishment was?

23 A. There was no options. That was it.

1 Q. Do you know whether this was the most severe
2 punishment he could have received for this
3 particular offense?

4 A. Well, he told -- well, when I had mentioned that my
5 child is special needs he says that's why he's in
6 in-school suspension here and not at Central.

7 Q. Did your husband express any agreement or
8 disagreement with the punishment during the meeting?

9 A. I don't -- I don't remember, because the topic
10 changed to -- he kept talking about my husband's
11 uniform and my husband's work and the topic just
12 changed really, really quickly, and I was very
13 frustrated when I left. That was it.

14 Q. When you asked the principal before [REDACTED] was in
15 the room if they had explained to [REDACTED] what he did
16 what is it that you were concerned about?

17 A. Because he has auditory processing disorder. [REDACTED]
18 can only understand one thing at a time and he needs
19 to be explained, and you need a response from him
20 that he understands what you're saying. So if you
21 don't treat him with what's on his IEP he comes off
22 like he knows what you're talking about, when he
23 doesn't. So I asked him did you explain, and I got

1 thrown with it's in the handbook and I should have
2 been at the parent meeting last week.

3 Q. Did [REDACTED] say anything else when he came in besides
4 something to the effect of I did it, okay?

5 A. He told us I did it with his head down. He couldn't
6 look at my husband or I and he was embarrassed and
7 walked away.

8 Q. So how long was [REDACTED] in the room for?

9 A. Not even a minute.

10 Q. Did he go back to the suspension room?

11 A. Yes.

12 Q. So did you have any conversation at all with the
13 principal after [REDACTED] went back about whether there
14 were any other options or possibilities for
15 punishment?

16 A. No.

17 Q. So what happened after that? I think you said that
18 the conversation changed. There was a --

19 A. It changed. He was just talking about my husband's
20 uniform and his work and we left. My husband had to
21 get back to work because he was working a double.

22 Q. So did he drive you back home?

23 A. Yes.

1 Q. Where was [REDACTED] phone after the meeting?

2 A. Oh. He gave it to my husband.

3 Q. And did your husband keep it?

4 A. Yeah, he took it.

5 Q. Did he take it with him back to work?

6 A. No. He gave it to me in the car.

7 Q. Okay. And then what did you do with it?

8 A. I put it downstairs on a night stand.

9 Q. Was it your intention to take it away from [REDACTED]?

10 A. No. It was my intention to have my husband sit down
11 with [REDACTED] the next day and talk about this, kind
12 of like a man-to-man thing.

13 Q. All right. So when you say downstairs you mean like
14 in the basement?

15 A. Yeah. We have like a spare bedroom in the basement.

16 Q. Does anyone use that?

17 A. My husband was using it because he just came off of
18 hip surgery and he was staying down there.

19 Q. So when was your husband scheduled to work until?

20 A. Eleven o'clock that night.

21 Q. Did you hear anything further from the school about
22 [REDACTED] for the rest of the school day?

23 A. No.

1 Q. Did [REDACTED] ride the bus home?

2 A. Yes.

3 Q. And do you know whether there was any discussion
4 about any of this on the bus?

5 A. I don't know.

6 Q. Were you home when [REDACTED] came home?

7 A. Yes.

8 Q. And what time was that about?

9 A. Two forty.

10 Q. Did you speak to [REDACTED] when he came home?

11 A. I said hello.

12 Q. Okay. Did he respond to you?

13 A. No. He had his head down. He was upset.

14 Q. Was anyone else home besides you?

15 A. Not at that moment, no.

16 Q. Did [REDACTED] say anything to you at all?

17 A. [REDACTED] went to his room, he dropped off his book
18 bag, and then he came -- I was in the kitchen, and
19 then he came out and asked if he could go shoot some
20 pucks on the street and I said yeah.

21 Q. Okay. Did he do that?

22 A. Yep. Yes.

23 Q. And about how long did he do that for?

- 1 A. Until dinner.
- 2 Q. Okay.. Was anyone with him?
- 3 A. Not at the time. At first he was by himself on the
- 4 street and then at three thirty-five my daughter
- 5 came home from school and I was -- I was watching
- 6 the boy who lives two doors down, and he was coming
- 7 to our house, also, [REDACTED], so [REDACTED] and [REDACTED]
- 8 came home from school, they said can we go and play
- 9 with [REDACTED] on the street. They wanted to shoot
- 10 some pucks with [REDACTED] I said if he lets you, go
- 11 ahead, and [REDACTED] let them, so the three of them
- 12 were shooting some pucks in the street into a net.
- 13 Q. You said [REDACTED] lives on the street?
- 14 A. Yes, two doors down.
- 15 Q. How old is he?
- 16 A. He was nine at the time.
- 17 Q. What is his last name?
- 18 A. [REDACTED] -- or [REDACTED].
- 19 Q. And is he friends with [REDACTED]?
- 20 A. Yes.
- 21 Q. So the three of them were outside?
- 22 A. Yes.
- 23 Q. About what time are we up to now?

1 A. This was right when they got off the bus so, it's
2 right around four o'clock.

3 Q. All right. And were you in the house then?

4 A. Yes. I was making dinner.

5 Q. Do you know how long they remained out there
6 shooting pucks?

7 A. Well, the phone rang around a little after four, it
8 was Dominic, so I called [REDACTED]. He had his
9 Rollerblades on. I called him to the door, gave him
10 the phone. He took the call in the garage. That
11 lasted for about maybe three minutes, maybe a little
12 longer. [REDACTED] handed me the phone and went back
13 and played with the kids until dinner, which I think
14 was around four thirty we started eating.

15 Q. So who was -- strike that. Were you all eating
16 together?

17 A. Yes. Me, [REDACTED] and [REDACTED].

18 Q. Did anything occur during dinner out of the
19 ordinary?

20 A. No. [REDACTED] -- well, [REDACTED] made a joke saying how
21 nice [REDACTED] was to her playing hockey.

22 Q. That was atypical?

23 A. You know how brothers and sisters are. He was extra

1 nice to her that day.

2 Q. Can you describe [REDACTED] mood, his demeanor?

3 A. It was much better after he played some hockey.

4 Q. So was there anything about him at that point that
5 you observed that caused you any concern?

6 A. Not like concern. He was still not himself. He was
7 better than when he first came off the bus, but he
8 was still like -- he looked like something was
9 bothering him.

10 Q. Did you ask him at all?

11 A. I planned on sitting with [REDACTED] after [REDACTED] left. I
12 didn't want to discuss anything with [REDACTED] being
13 there.

14 Q. So what time was dinner over?

15 A. Closer to five.

16 Q. And tell me where everybody went after that.

17 A. So [REDACTED] and [REDACTED] went into the living room to play
18 Wii, and [REDACTED] came out and said can I lift some
19 weights, he has a weight bench in the basement, and
20 I said sure, go ahead..

21 Q. Was that something he did regularly?

22 A. About three, four times a week.

23 Q. And did he typically do it around the same time of

1 day?

2 A. No. He did it whenever he felt like it.

3 Q. Did anyone go down into the basement with him?

4 A. No.

5 Q. Do you know how long he was down there for?

6 A. A while. He was down there, had to have been like
7 twenty, twenty-five minutes to half an hour.

8 Q. Do you know what he was doing down there?

9 A. From what I heard you could hear like a clink of the
10 weights, and I could hear the weights from upstairs.
11 I was cleaning up after dinner, so I heard him down
12 there, and I was keeping an eye on the kids in the
13 living room.

14 Q. So it seemed to you from the noise that he was
15 lifting weights?

16 A. Yeah. Yeah.

17 Q. Did he come back upstairs?

18 A. He did.

19 Q. About what time was that?

20 A. I couldn't tell you the exact time. All this
21 started happening between like twenty after five to
22 six o'clock we're talking now, and in that time he
23 came back up, went to his bedroom, and then he said

1 can I go outside and shoot some pucks, but this time
2 he wanted to go in the backyard, and that was very
3 normal. He had a net in the back with some wood and
4 he had regular hockey pucks, not the kind you play
5 in the street, so we set up a spot in the back
6 behind the pool that he could shoot his pucks
7 without hitting no one's house. It was set up by
8 the trees, and every day he did that.

9 Q. So did he have like a shooting board back there or
10 something?

11 A. Yeah.

12 Q. Okay.

13 A. So the last time I ever saw [REDACTED] because I have a
14 patio door -- as I was cleaning up the kitchen I
15 watched him walking. He had his hockey stick in his
16 hand and he was heading towards the back.

17 Q. And that was about what time?

18 A. All this -- I couldn't tell you the exact moment,
19 but everything started happening, it was between
20 twenty after five and six o'clock, because right
21 after that the phone rang. It was the boy's mother
22 from two doors down. She was saying thank you for
23 watching [REDACTED] she's home, you can send him back

1 now, so she had me on the phone for a while. So
2 after I hung up with Judy, his mother, I said, [REDACTED]
3 get your stuff together. So we were getting his
4 school bag, sneakers, all that. I went to the
5 front, I watched him walk home, and then I said,
6 well -- me and [REDACTED] came back in, and then we went
7 -- I said where's [REDACTED], and said, oh, yeah, he's
8 outside. I called [REDACTED], [REDACTED]. I didn't see
9 him, and I called out his name, and [REDACTED] always
10 where he says he's gonna be, so he wasn't out there,
11 so I went, looked in his room. I didn't see him. I
12 went down to the basement and I noticed his phone
13 was gone that I put on that stand, walked around the
14 basement. So then I text [REDACTED]. I said where are
15 you, I know you have your phone. Nothing.

16 Q. Nothing meaning no response?

17 A. Uh-uh.

18 Q. That's a no?

19 MS. FAHEY: You have to say yes or no.

20 BY MR. CAVARELLO:

21 Q. There was no response to the text?

22 A. No.

23 Q. What did you do after you got no response?

1 A. Well, I called my sister. I said -- I told her what
2 was going on, and then she's like why don't you go
3 look where he plays hockey, maybe he's with a friend
4 or a friend's house. So I got [REDACTED] and I went past
5 a couple friends' houses where he might be playing.
6 I went by Como Park school, because sometimes they
7 play football or hockey, and he wasn't there. I
8 didn't ride around long, came back, and my daughter
9 says, mommy, let's go look beyond the trees in our
10 backyard. Sometimes [REDACTED] would take a bucket and
11 gather his pucks and he'd be back there a while. I
12 said maybe, I said, let's go back there. So my
13 daughter was with me and we went back there, and I
14 looked down and I saw his hockey stick and his phone
15 to my left, and I looked to my right and he was
16 laying there dead -- well, I didn't know he was dead
17 at the time. He was laying there with the gun on
18 his stomach and blood on his face.

19 Q. Did your daughter see him, also?

20 A. Yes.

21 Q. Was he actually in the rear of your property? Is
22 that where he was?

23 A. It was beyond our property. We have Christmas trees

1 that divide our property. He was actually on 363
2 Aurora's property.

3 Q. And were you the first person to find him? Yes?

4 A. Yes.

5 Q. So what did you do, ma'am?

6 A. Screamed. The little boy who I had just watched was
7 playing in his backyard and he came and saw [REDACTED].
8 He ran and got his mom and dad. I -- I was trying
9 to call 911. I couldn't even hit those numbers. I
10 think I got through to 911, and then Judy came and
11 took the phone from me and she helped me. Her and
12 her husband took over.

13 Q. All right. Did you leave that area at that point?

14 A. Yeah. I grabbed my daughter and then I went -- I
15 wanted to take my daughter to my neighbors. I
16 didn't know my neighbor wasn't home. I was smacking
17 windows, and before I knew it all my neighbors came
18 and they took [REDACTED]

19 Q. Did someone inform you at the scene or at your home
20 that your son was deceased?

21 A. Nobody told me anything. I saw the ambulance come,
22 they went back there, and then I saw them come right
23 out, and I asked one of the Lancaster police

1 officers, I said why aren't they taking him, and he
2 says no one told you,, and I said no,, and he said,,
3 sorry, ma'am, he passed.

4 Q. Do you know what officer that was?

5 A. No.

6 Q. Did someone call your husband at some point?

7 A. My neighbor Judy.

8 Q. Did he come home?

9 A. Yeah. They had him driven home.

10 Q. Ma'am, do you know what became of your son's phone
11 from the time you saw it on the ground?

12 A. The police couldn't find it, and I couldn't
13 understand, 'cause they taped the whole area off. I
14 couldn't go back there. And I told them it was
15 there, but they couldn't find it. They said if you
16 find it let us know. And my husband had his father
17 go back there and he found it the next day. I
18 understand why the police didn't find it.

19 Q. Why?

20 A. Because where he normally would shoot pucks, that's
21 where I found the phone and the stick, but he went
22 and shot himself behind the neighbor's shed, which
23 was a lot further away, so it made sense for me to

1 know it's there, but not for them.

2 Q. So it wasn't at the immediate scene?

3 A. No. He dropped it and then ran.

4 Q. Do you know whether the police or anyone looked
5 through the phone after they found it?

6 A. Yes. The detective, W-O-J-C-I-K, Wojcik, when we
7 found the phone, he asked if he could go look
8 through it and my husband said he could. We didn't
9 know the pass -- the password, and my husband says
10 you're never gonna get it in, because he said
11 they're still trying in California to get into that
12 phone, and he got in it within an hour, and we were
13 burying [REDACTED] with the phone.

14 Q. And why was that?

15 A. Because that was [REDACTED] thing. That was his baby.

16 Q. Do you know if the police found anything on it of
17 significance?

18 A. He says nothing was on there. I guess the detective
19 told my husband they were looking if [REDACTED] was
20 being threatened or anything and there was no
21 bullying or anything like that.

22 Q. Do you know if [REDACTED] posted anything or sent
23 messages of anything --

1 A. Yeah.

2 Q. -- before he died?

3 A. I was told --

4 MS. FAHEY: You have to wait for his
5 question.

6 THE WITNESS: I'm sorry.

7 BY MR. CAVARELLO:

8 Q. I'm sorry. Go ahead.

9 A. Say it again. I'm sorry.

10 Q. Do you know whether [REDACTED] posted anything or sent
11 any messages to anyone before he died?

12 A. Yeah. I was told by the detective that there was
13 like a suicide note left on Instagram.

14 Q. Did the detective tell you what it said?

15 A. I didn't want to know.

16 Q. Did you ever come to learn how [REDACTED] had gotten
17 access to a gun?

18 A. Yes.

19 Q. How was that?

20 A. My husband had a gun downstairs in a lock box and
21 that's the gun he used.

22 Q. Do you know how he was able to get into the lock
23 box?

1 A. When they found the lock box it was still locked.

2 It was pried open.

3 Q. Did your husband generally keep the gun loaded?

4 A. It wasn't loaded.

5 Q. It wasn't loaded in the box you mean?

6 A. Yes.

7 Q. Did he also have ammunition someplace in the
8 basement?

9 A. Yes.

10 Q. After [REDACTED] passed away did anyone from the family,
11 you, your husband, had anyone done any social media
12 postings about what had happened at the school?

13 A. No.

14 Q. Was there ever a posting that you were aware of that
15 said something to the effect of that your son had
16 been bullied by the Lancaster principal?

17 A. No.

18 Q. Do you have any knowledge of [REDACTED] having been
19 bullied or mistreated by any other student at the
20 school?

21 A. Never.

22 Q. Any acquaintances or anyone more his age that wasn't
23 treating him properly?

1 A. Not that I'm aware of.

2 Q. Did he ever complain to you about anyone in
3 particular?

4 A. Never.

5 Q. After this all occurred, ma'am, did you ever speak
6 to people, like his coaches or his teachers or
7 anything, to see if they observed anything unusual?

8 A. Only time I spoke with them is -- so many people
9 came to the wake. I can't even tell you what I
10 said. I was in -- I don't remember a lot from that
11 day.

12 Q. Ma'am, did the family, you and your husband, incur
13 funeral and burial expenses?

14 A. Yes.

15 Q. Do you know approximately how much that was?

16 A. Twenty-three thousand dollars.

17 Q. And what did that consist of?

18 A. The funeral home, his plots, the stone, the church,
19 and the funeral breakfast after.

20 Q. Were those expenses paid by you or your husband?

21 A. Both of us.

22 Q. Did you ever have any conversations with anybody
23 from the school district after your son passed away

1 that related back to this incident involving the
2 photo and the discipline that he received?

3 A. I talked with everybody at the wake. I don't know
4 what I said.

5 Q. Anyone after the wake? Did you reach out to the
6 school ever and talk --

7 A. Yes.

8 Q. -- with the principal or anybody like that?

9 A. I did. I was going to sit down and talk with the
10 director of special ed, and then I came here and
11 then we canceled it.

12 Q. Why is it that you were going to do that?

13 A. To make changes.

14 Q. Did you say to make changes?

15 A. To make changes.

16 Q. What did you have in mind, ma'am? What changes?

17 A. Something better than what my son went through.

18 Q. And can you elaborate on it a little bit for us
19 specifically what you're referring to?

20 A. Sure. He had special needs. Where was the special
21 ed teacher? Where was everything? I felt like I
22 did my part from day one, kindergarten, and I
23 followed through every meeting, everything, and we

1 get up to this point, where is the Lancaster special
2 ed program when we need them, when we need backup
3 here? I reached out to John Armstrong. Where was
4 he?

5 Q. Who's that?

6 A. Director of special education for Lancaster.

7 Q. And when you say where was he or where were they --

8 A. Yeah.

9 Q. -- when do you mean?

10 A. In the principal's office when all this is going
11 down.

12 Q. You mean when he was being questioned about it?

13 A. Yeah.

14 Q. Do you believe your son may have had a hard time
15 comprehending what was happening?

16 A. Absolutely, yes.

17 Q. And why do you believe that?

18 A. Because I know it needs to be explained to him,
19 needs to be repeated back so you know he
20 understands, and the principal, from what I know,
21 didn't do that.

22 Q. Did you or your husband ever attempt to do that?

23 A. Always with [REDACTED].

1 Q. I mean with regard to this incident. In other
2 words, say when he came home from school or anything
3 like that, did you try to --

4 A. This was only the second time he's ever been in
5 trouble, and I was going to do that with [REDACTED]
6 after the boy left, and then when the boy left I
7 looked for [REDACTED], and that's when I couldn't find
8 him. In fact, I wasn't even going to let [REDACTED] go
9 back to that school. I was going to home school him
10 until the high school.

11 Q. Is there anything else about the manner in which the
12 situation was handled that you -- you were not
13 pleased with or thought was inappropriate? So far
14 you've told me you're not certain that your son was
15 able to understand what was happening, you believe
16 that someone else, perhaps from special ed, should
17 have been there at the time. Is there anything
18 else?

19 A. I should have been notified first. I should have
20 been in that room. I should have signed a release
21 to go through his phone.

22 Q. Anything else that you believe was handled
23 inappropriately by the principal or by the school

1 district regarding this particular incident?

2 A. Just this incident or the one in March, too?

3 Q. Let's talk about this one first, but we'll get back
4 to that one. How about this one from May?

5 A. For now, yeah. That's it for May.

6 Q. What about the March incident?

7 A. The March, I should have had more information. I
8 should have been included in on that conversation,
9 as well. I feel the same way. I feel that
10 somebody from special ed program should have been
11 with [REDACTED] representing him, and I should have been
12 called. I should have known who those girls were.
13 Why wasn't I -- I should have been contacted in
14 October of 2015 or whenever that happened.

15 Q. At any point either after the March situation or
16 after the May situation did you ever try to contact
17 anyone sort of above the principal, like speak to
18 the superintendent of the schools --

19 A. Never.

20 Q. -- or anything like that?

21 A. No.

22 Q. Did any of those folks ever reach out to you --

23 A. No.

1 Q. -- or your husband?

2 A. No.

3 Q. Did you ever consider doing that, speaking to
4 someone higher up the chain?

5 A. No.

6 Q. Had you ever had any contact at all with the school
7 resource officer, the police officer --

8 A. No.

9 Q. -- either before or after?

10 A. No.

11 MR. CAVARELLO: Okay, ma'am. Those are all
12 the questions I have for you. Thank you.

13 THE WITNESS: You're welcome.

14

15 EXAMINATION BY MS. APTER:

16

17 Q. I just have some follow-up questions.

18 A. Sure.

19 Q. I'm Julie Apter. I represent the Town of Lancaster.
20 Did [REDACTED] have any type of jobs, like paper routes
21 or anything?

22 A. He cut my mother's grass in the summer.

23 Q. Okay. Did she pay him?

1 A. Yes.

2 Q. Okay. Was -- did the grass-cutting season start
3 already right before May 6th?

4 A. No. No. He was going to start cutting it after.

5 Q. Did he cut grass for your mom like the year before?

6 A. That's when it started, the year before, yeah.

7 Q. Okay. How about winter; did he ever shovel
8 driveways for anyone?

9 A. No. He was too busy.

10 Q. Okay. When he would cut grass for your mom do you
11 know how much your mom paid him?

12 A. Twenty dollars.

13 Q. Did he -- was he allowed to keep the money for
14 himself?

15 A. Oh, absolutely.

16 Q. Did he have a bank account?

17 A. Yes, he did.

18 Q. Okay. When he died was there money in the bank
19 account?

20 A. There was.

21 Q. Do you know how much was in there?

22 A. I believe it was two thousand. I transferred it to
23 my daughter's account.

1 Q. Did you or your husband have a life insurance policy
2 on your son?

3 A. No.

4 Q. Did any type of insurance pay any of the funeral or
5 burial expenses?

6 A. Nothing.

7 Q. I just want to -- when we were talking about his
8 schooling you mentioned about the -- I believe the
9 special ed instructors assigned to your son, and you
10 indicated at William Street it changed every year.
11 Was he at William Street more than two years?

12 A. Yes. Fourth, fifth and sixth.

13 Q. And I said more than two years. Other than fifth
14 and sixth did he have to stay longer?

15 MS. FAHEY: She said fourth, fifth and
16 sixth.

17 MS. APTER: Oh. Fourth, fifth and sixth.
18 I'm sorry.

19 MS. FAHEY: That's okay.

20 BY MS. APTER:

21 Q. Okay. Was he ever held back in any grade?

22 A. No.

23 Q. Have the police ever been called to your house for

1 any issues with [REDACTED]?

2 A. No.

3 Q. And I understand you --

4 A. Oh, the police did come to my house over the -- that
5 spring. He was shooting his pucks, like I said, by
6 the Christmas trees, and the neighbors thought he
7 was stalking, casing their house, so a police
8 officer came through our backyard and just said --

9 Q. When was this?

10 A. Early March.

11 Q. So the spring of 2016?

12 A. Yeah.

13 Q. Did anything come of that?

14 A. No. No. It was just more he found -- the officer
15 found it funny.

16 Q. Okay. Did any other neighbors ever have any
17 complaints about [REDACTED]?

18 A. No.

19 Q. Did [REDACTED] have any type of BB gun?

20 A. Yes, he did.

21 Q. Were there ever any complaints about him shooting BB
22 guns?

23 A. Never used it, so no.

- 1 Q. The incident around March when the police were
2 called, did that have anything to do with the girls
3 at school, that call in March?
- 4 A. No. It was a new neighbor that moved in. They
5 didn't know who [REDACTED] was, so she thought it was --
6 he was very tall for his age and she thought it was
7 a guy looking at her property, and he was just
8 picking up his pucks and shooting some pucks, very
9 innocent.
- 10 Q. Okay. Going back to the school resource officer,
11 did you ever learn the name of the school resource
12 officer?
- 13 A. I didn't.
- 14 Q. Did [REDACTED] ever meet with a school resource officer
15 at any time before May of 2016?
- 16 A. Not that I'm aware of.
- 17 Q. Was it your understanding that this incident in May
18 was the one and only time a school resource officer
19 was involved in a meeting?
- 20 A. Yes.
- 21 Q. I believe you testified that you were told the
22 school resource officer was the one that deleted the
23 pictures off the phone?

1 A. It was -- I wasn't told exactly. It was either the
2 principal or him. I don't know which one for sure
3 it was.

4 Q. Okay. Do you have any knowledge of any interaction
5 that the school resource officer had with [REDACTED]
6 during the meeting with the principal, other than
7 his presence?

8 A. I don't know.

9 Q. Okay. Is it your claim that the school resource
10 officer harassed or threatened [REDACTED] at all?

11 A. I don't know, no.

12 Q. So you really don't know, again, what happened,
13 correct?

14 A. I was told -- the principal used we, we went through
15 his phone, we brought [REDACTED] in. I don't know what
16 part he played.

17 Q. Okay. Was a police report ever made involving the
18 pictures on the phone?

19 A. I don't know.

20 Q. Did anyone from Lancaster Police Department ever
21 contact your family at any time about the meeting at
22 the school?

23 A. No.

1 Q. Okay. And had you ever seen any type of report that
2 may have been prepared by the police department
3 involving the May meeting at the school?

4 A. No.

5 Q. When school starts for the school year are there
6 open houses that the parents can go to?

7 A. Yes.

8 Q. Do you know if you went to the open house for the
9 2015-2016 school year?

10 A. I went to seventh grade -- yes -- no. We went in
11 for open house to bring Jordan's stuff in for his
12 locker, get his picture taken, but we didn't go to
13 the open house because we did it in seventh grade.

14 Q. Does the school provide handbooks that they give to
15 students and parents involving policies at the
16 school?

17 A. I believe so.

18 Q. Do you know if you had the school policy or handbook
19 for the 2015-2016 school year?

20 A. I don't know.

21 Q. To your knowledge was there a school policy
22 involving students bringing cell phones into school?

23 A. I don't know what the policy was. I do know that

1 [REDACTED] was told to get a certain app for math on his
2 phone, so we did. We got him the phone so he could
3 get this math app for school in seventh grade.

4 Q. Did the school send home any type of permission slip
5 for students bringing phones into school?

6 A. No.

7 Q. Do you know who the math teacher was in seventh
8 grade who required the app on the phone?

9 A. I could look it up.

10 Q. I'm just asking if you know now.

11 A. No.

12 Q. Was this an app that could be downloaded to a
13 computer, to your knowledge?

14 A. I don't know.

15 Q. Had you ever seen this math app on your son's phone?

16 A. No.

17 Q. Did [REDACTED] know how to download apps, to your
18 knowledge?

19 A. Yes.

20 Q. And did you ever see him using the phone for math
21 when he was in seventh grade?

22 A. No. He did all his work at school, and then
23 whatever he didn't do in the classroom he did in

1 Miss Baker's room, so he never really brought
2 ~~anything~~ home to do.

3 Q. Okay. I'm sorry. You already testified who was
4 pediatrician.

5 A. Yes.

6 Q. Dr. --

7 A. Dr. Dzik, D-Z-I-K. There's a mister and missus. He
8 had the mister.

9 Q. What was the name of the practice?

10 A. Genesee Transit Pediatrics.

11 Q. Okay. Other than treating -- I mean seeing his
12 pediatrician for routine visits was he under the
13 care of any other physician for any other
14 conditions?

15 A. Well, he had been to Children's to the cardiac unit
16 for an incident. He almost passed out at school,
17 and the nurse called me, so we took him in for an
18 evaluation, but that was it.

19 Q. When was that?

20 A. February or March.

21 Q. Of 2016?

22 A. This year, yeah.

23 Q. And you said he passed out at school?

1 A. He almost passed out. It was due to lack of sodium.

2 Q. Did he have any other health issues, to your
3 knowledge?

4 A. No.

5 Q. You said it was due to lack of sodium?

6 A. Yeah. He was working out, drinking a lot of water,
7 but he wasn't putting enough sodium back into his
8 body, so that would cause him to feel lightheaded.

9 Q. At the time of his death did you know his height and
10 weight?

11 A. Yeah, 'cause we keep it on the door and I just
12 measured him. He was five eleven and his weight
13 roughly about a hundred forty-five pounds.

14 Q. Was [REDACTED] trying to lose weight around that period
15 of time?

16 A. No. No. He's actually been trying to gain. He was
17 just doing a lot with hockey and exercise.

18 Q. Okay. Was he doing well on the hockey team?

19 A. Yeah. He loved it.

20 MS. APTER: I think that's all I have.

21 Thank you.

22 MR. CAVARELLO: I'm all set.

23 MS. APTER: I'm sorry. Did you -- I know I

1 asked about the school resource officer, but had you
2 ever discussed the incident in school with anyone
3 else at the Town of Lancaster, any type of official,
4 supervisor?

5 THE WITNESS: Did I go in and talk with
6 somebody?

7 MS. APTER: Or have you talked to anyone
8 from the Town of Lancaster about this?

9 THE WITNESS: Just at the scene, the day of.

10 MS. APTER: Okay. All right. That's all.
11 Thank you.

12 THE WITNESS: Okay.

13 * * * 11:49 a.m. * * *
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